

FINAL REPORT OF THE COMMUNICATIONS AUTHORITY

INVESTIGATION INTO THE CONTROL AND MANAGEMENT OF ASIA TELEVISION LIMITED

The Communications Authority ¹ (formerly Broadcasting Authority) (collectively referred to as the “Authority” hereafter) has investigated and considered the role played by Mr Wong Ching (王征) in the control and management of Asia Television Limited (ATV), a domestic free television programme service licensee. The investigation was initiated in view of public concerns over the alleged improper participation of Mr Wong Ching in the day-to-day management and operations of ATV. In the course of the investigation, the Authority also found it necessary to consider whether ATV and certain officers of ATV remained “fit and proper” as required under the Broadcasting Ordinance (Cap. 562) (BO). This report sets out the findings of the investigation and the decision of the Authority.

BACKGROUND

The Authority’s Decision to Conduct an Investigation

2. In June 2011, the Authority received a complaint letter requesting the Authority to investigate whether Mr Wong Ching had been exercising control of ATV in contravention of the relevant statutory or licence provisions². It was alleged that there had been media reports that Mr Wong Ching had been actively participating in the day-to-day management and operations of the company and raised queries as to whether Mr Wong Ben Koon (黃炳均), who held 52.4% of the voting shares of ATV, did so as a proxy or nominee of Mr Wong Ching.

3. In response to public concerns over the control and management of ATV, the Authority wrote to ATV in August 2010 reminding ATV to adopt the highest standards of corporate governance. Despite the Authority’s reminder with respect to the standards of corporate governance, there were wide public concerns over the role played by Mr Wong Ching, which included

¹ Since 1 April 2012, the Broadcasting Authority has been disbanded and its statutory functions have been taken over by the Communications Authority, which is a unified regulatory body tasked with overseeing the broadcasting and telecommunications sectors.

² In October 2011 and September 2012, the Authority’s Secretariat also received two complaints from members of the public alleging that ATV was influenced by Mr Wong Ching.

press reports of a letter issued in June 2011 by ATV staff to ATV's board of directors (**the ATV Board**) raising their concern about the role of Mr Wong Ching and public outcry over the role of Mr Wong Ching after the misreporting of Mr Jiang Zemin's (江澤民) death in July 2011. In view of these broad ranging concerns, the Authority decided in July 2011 to conduct an investigation under the BO into whether Mr Wong Ching had been exercising *de facto* control of ATV and the relevant regulatory consequences.

Regulatory Framework

4. In view of the extensive reach and potential influence of free television programme services, and in order to safeguard the public interest and ensure that such services will cater for local interests and tastes, the BO provides for a clear regulatory framework governing the ownership and corporate control of domestic free television programme service licensees. This includes the "fit and proper person" requirement, the residence requirement, and restrictions on disqualified persons, etc. Holders of a domestic free television programme service licence and persons who exercise control over such licence holders are required to comply with the relevant requirements.

5. In particular, section 21 (1) of the BO requires that a licensee and any person exercising control of the licensee shall be and remain a "fit and proper person". Section 21(4) of the BO provides that, in determining whether a licensee or a person exercising control over the licensee is a "fit and proper person", account shall be taken of –

- (a) the business record of the licensee or person;
- (b) the record of the licensee or person in situations requiring trust and candour;
- (c) the criminal record in Hong Kong of the licensee or person in respect of offences under the laws of Hong Kong involving bribery, false accounting, corruption or dishonesty; and
- (d) the criminal record in places outside Hong Kong of the licensee or person in respect of conduct which if, done in Hong Kong, would constitute or form part of the criminal record in Hong Kong of the licensee or person as mentioned in paragraph (c) above.

ATV's Licence

6. Condition 10.1 of ATV's domestic free television programme service licence (**ATV's Licence**) provides that, unless otherwise approved by the Authority, the licensee shall comply with the Licensee's Proposal, including statements and representations regarding the control of the licensee.

7. In June 2010, ATV sought the Authority's approval of a shareholding change involving the acquisition of 52.4% of ATV's voting shares by Mr Wong Ben Koon. On 1 September 2010, the Authority approved the new shareholding structure of ATV, subject to the finalisation of the terms of an undertaking of Mr Wong Ching. In support of the shareholding change application, Mr Wong Ching submitted to the Authority a letter of undertaking the terms of which were finalised on 19 October 2010 to the effect that, following the completion of ATV's shareholding change, he would not be "entitled to exercise *de facto* control over ATV" (**the No-control Undertaking**). As this undertaking constituted part of the Licensee's Proposal of ATV, ATV has an obligation to comply with it at all times. Failure to comply with the No-control Undertaking constitutes a breach of Condition 10.1 of ATV's Licence.

Mr Wong Ching's Status

8. Mr Wong Ching is neither a shareholder, a Board director nor a principal officer of ATV. He is a financial investor of ATV and a holder of convertible notes issued by ATV. He does not have any capacity or rights under the BO to exercise control of ATV. This is reflected in his No-control Undertaking to the Authority (for the background leading to the No-control Undertaking, see paragraphs 25 to 26 below).

Investigation Methodology

9. In the course of the investigation, which effectively took place between July 2011 and June 2012, the Authority collected information from those whom it had reasonable grounds to believe would have information relating to the matters being investigated. The Authority has also requested ATV to submit representations, conducted interviews with relevant persons

and invoked its statutory powers under section 26 of the BO³ to obtain information and documents from them, as well as from ATV's management. The Authority has carefully assessed the evidence collected in the course of its investigation to reach its findings. It has also taken into account ATV's written and oral submissions made in the course of the judicial review proceedings initiated by ATV in relation to this investigation, as well as the judgements of the Court of Appeal and the Appeal Committee of the Court of Final Appeal handed down on 15 May 2013 and 21 August 2013 respectively (see paragraph 18 below).

THE INVESTIGATION – THE PROCESS

Information Submitted by ATV and Other Relevant Persons

(1) Initial submission of ATV

10. In response to the Authority's initial enquiry in June 2011, ATV claimed between June and August 2011 that Mr Wong Ching had not exercised *de facto* control of ATV. Specifically, ATV submitted to the Authority that –

- (a) Mr Wong Ching is a main investor of ATV because he has provided crucial financial support to ATV by way of indirectly financing the subscription of a substantial amount of convertible notes offered by ATV;
- (b) Mr Wong Ching's participation in the day-to-day management and operations of ATV is only in the capacity of a personal consultant to Mr James Shing (盛品儒), the Executive Director of ATV;
- (c) Mr Wong Ching is not in a position to exercise any voting control of ATV as he does not hold any beneficial interest in any shares in ATV. In addition, the conversion of any convertible notes issued by ATV, the subscription of which was funded by Mr Wong Ching, into shares in ATV would be subject to further approval by

³ Under section 26(1) of the BO, where there are reasonable grounds for believing that a person, other than a licensee, is, or is likely to be in possession of information or a document that is relevant to the Authority's investigation of a breach of the BO, the licence condition or the direction, order or determination under the BO, the Authority may by notice request the person to give the information or documents in writing to the Authority. Section 26(1) applies to current and former staff of ATV, as well as directors of ATV.

the Authority. The allegation that Mr Wong Ben Koon had acquired and is holding 52.4% of voting shares of ATV as a proxy or nominee of Mr Wong Ching is unfounded;

- (d) all Senior Vice Presidents and Vice Presidents of ATV report to Mr James Shing, the Executive Director of ATV. The participation of Mr Wong Ching in the decision-making process of ATV is limited to his role as a personal consultant to Mr James Shing; and
- (e) according to the consulting agreement between Mr James Shing and Mr Wong Ching dated 15 April 2010 (**the Consulting Agreement**), Mr Wong Ching is required to provide “advice, recommendations, assistance and support” to Mr James Shing as he requests in relation to the “management, operations and businesses of the ATV Group”. It is expressly provided in the agreement that Mr Wong Ching should have no direct right to or responsibility for controlling and directing the members of management, employees and officers of the ATV, and that the advice and recommendations made by Mr Wong Ching might be accepted or rejected at the sole discretion of Mr James Shing.

11. ATV subsequently submitted, in response to the Authority’s request, documentary information which included –

- (a) minutes and recordings of the ATV Board meetings held in 2010 and 2011 (10 sets for 2010 and one for 2011);
- (b) minutes of ATV’s weekly management meetings (每周行政例会) held in 2010 and 2011 (42 sets for 2010 and 32 sets from January to September 2011) (**Minutes Supplied by ATV**);
- (c) the company’s Memorandum and Articles of Association (**M&A**); and
- (d) the letter dated 30 November 2010 appointing Mr James Shing as the Executive Director of ATV.

(2) Information collected through interviews with relevant persons

12. Between October 2011 and December 2011, the Authority conducted interviews with relevant persons (**the Interviewees**) including former executives of ATV. In response to requests made by the Authority

pursuant to its power under section 26 of the BO, several Interviewees supplied the Authority with certain documents relating to ATV, including copies of minutes of ATV's weekly management meetings. These copies of the minutes of the weekly management meetings (31 sets for 2010 and 18 sets from January to September 2011) are referred to as the "**Minutes Supplied by Interviewees**" to distinguish them from the Minutes Supplied by ATV.

13. Pursuant to its power under section 26 of the BO, the Authority invited in November 2011 Mr Wong Ching and ATV's management, i.e. Mr James Shing and Mr Kwong Hoi Ying (鄭凱迎), to attend interviews with the Authority. The invitations were declined. All of them chose to provide written submissions to questions raised by the Authority between December 2011 and June 2012.

14. On 9 March 2012, the Authority sent its draft investigation report with provisional findings to the solicitors for ATV, Baker & McKenzie, and invited ATV's representations. In the light of ATV's representations of 3 May 2012 on the findings about material discrepancies between the Minutes Supplied by ATV and the Minutes Supplied by Interviewees (see paragraphs 43 to 45 below), the Authority conducted an interview with a director of ATV (**the Interviewed Director**) in May 2012 and sought further written representations from Mr James Shing and ATV.

15. Separately, in response to ATV's request dated 27 March 2012 for disclosure of all information obtained by the Authority in the investigation and the sources of all information relied on in the draft investigation report, the Authority provided ATV with a redacted version of the summary of the interviews (**the Redacted Summary**), which is more detailed than the version that appears as **Appendix B** to the draft report (see paragraph 31 below).

16. In conducting this investigation, the Authority has relied on the Minutes Supplied by ATV, the Minutes Supplied by Interviewees, the Consulting Agreement, the written submissions and representations provided by ATV, Messrs James Shing, Kwong Hoi Ying and Wong Ching, the evidence given by the Interviewed Director, statements and documentary evidence provided by the Interviewees to the extent that such evidence is supported by and/or consistent with other evidence.

(3) Representations of ATV and the judicial review proceedings

17. The Authority made amendments to the draft investigation report of 9 March 2012 taking into account –

- (a) the various representations made by ATV through Baker & McKenzie in the period following the issue of the draft investigation report on 9 March 2012;
- (b) the interview with the Interviewed Director conducted in May 2012;
- (c) the further representations made by Mr James Shing and ATV in relation to information obtained from the Interviewed Director in his interview;
- (d) the ATV Board meeting of 26 March 2012 and the views of the directors of ATV who had voted against the resolutions passed at the Board meeting; and
- (e) the Authority's requirement that ATV is to submit a proposal setting out in detail the steps that it would take to improve its standards of corporate governance.

18. On 21 June 2012, a revised draft of the report setting out the provisional findings of the Authority (**Revised Draft Report**) was sent to Baker & McKenzie and to Messrs James Shing, Kwong Hoi Ying and Wong Ching for representations. ATV did not take the opportunity to make representations and instead, on 26 June 2012, it lodged an application for leave to apply for a judicial review challenging the Authority's refusal to disclose the identity of the Interviewees and the full transcripts of the interviews. On 19 October 2012, the Court of First Instance (**CFI**) decided in favour of ATV and the Authority lodged an appeal against the judgement to the Court of Appeal (**CA**). On 15 May 2013, the CA reversed the judgement of the CFI and ruled in favour of the Authority. On 22 May 2013, the Authority wrote to ATV offering it a further opportunity to make representations on the Revised Draft Report. However, the Authority has not received any further representations from ATV within the deadline set by the Authority. The judicial review proceedings were brought to an end when the application by ATV for leave to appeal to the Court of Final Appeal (**CFA**) was dismissed by the Appeal Committee of the CFA on 15 August 2013. As a result of the judicial review proceedings initiated by ATV, the conclusion of

the investigation and the publication of this decision of the Authority have been postponed for more than one year.

THE INVESTIGATION – CONTROL AND MANAGEMENT OF ATV

(A) Information Relating to the Roles Played by Messrs James Shing and Wong Ching in the Control and Management of ATV

(1) The role of Mr James Shing in ATV

19. The ATV Board met on 23 March 2010 and resolved by the majority of directors that Mr James Shing be appointed as the Executive Director of ATV⁴. The organisation chart of ATV indicates that all Senior Vice Presidents and Vice Presidents of ATV would report to Mr James Shing after the former Chief Executive Officer (CEO) of ATV, Ms Nancy Hu (胡競英), had stepped down from the daily management of ATV in July 2010.

20. From January 2010 to late 2010, the ATV Board conducted regular meetings in accordance with ATV's M&A. From late 2010 to September 2011, however, no Board meetings of any kind were convened. Some of ATV's directors have been denied access to ATV's documents and records. Hence, ostensibly all the powers and decision-making of the ATV Board in relation to the management, operations and business of ATV rested with Mr James Shing. This observation is supported by the Court's findings in the case *Tsai Shao Chung v ATV* (HCMP 749/2011). The Court found in its judgement in that case that "all the powers and discretions of the board of ATV in relation to the management, operation and business of ATV and its subsidiaries had been delegated to the Executive Director, subject to any strategies and policies agreed by the board, and limitations specified in ... [*the board's*] resolution⁵". At the hearing before the Court of Appeal, ATV also submitted that Mr James Shing was the only person authorised by the ATV Board to manage ATV and that it was unrealistic to expect other members of

⁴ ATV submitted that no written minutes were endorsed for the Board meeting held on 23 March 2010 because certain minority directors refused to acknowledge or sign any written minutes. Before his appointment as the Executive Director of ATV, Mr James Shing had been a director of ATV since his appointment on 4 March 2010.

⁵ In respect of the limitations, paragraph 6(2) of the judgement points out that certain matters were required to be referred by the Executive Director to the ATV Board for approval. These included transactions, financial decision and capital expenditure over certain stated amounts, involvement in a new area of business, matters relating to the capital structure of the company, declaration of dividends and the appointment or removal of auditors or the CEO and the chief financial officer.

the ATV Board to be able to handle the day-to-day management and operations of ATV.

21. The appointment letter of Mr James Shing as Executive Director of ATV clearly stipulates that he is **not** allowed to divulge to third parties ATV's trade secrets and confidential information obtained in the course of his employment without written permission of the "Management".

(2) The role of Mr Wong Ching in ATV

22. Mr Wong Ching is ostensibly engaged by Mr James Shing under the terms of the Consulting Agreement to give advice, recommendations, assistance and support to Mr James Shing in relation to the management, operations and business of ATV. According to the Consulting Agreement, Mr Wong Ching has no direct right to or responsibility for controlling or directing the members of management, employees and officers of ATV. His advice and recommendations may be accepted or rejected by Mr James Shing. The scope of work of Mr Wong Ching as the personal consultant to Mr James Shing is neither project-specific, nor time-limited. It does not identify the expertise that Mr Wong Ching possesses and for which he is to be appointed as a "personal consultant".

23. In response to enquiries from the Authority on Mr Wong Ching's role in ATV, Mr James Shing offered the following clarifications –

- (a) it was his decision to engage Mr Wong Ching as his personal consultant. Mr Wong Ching has no official capacity at ATV as an employee or a consultant of ATV;
- (b) as the Executive Director of ATV, he had "implied authority" to seek services from other persons, as and when necessary, for the purpose of discharging his duties as the Executive Director;
- (c) he did not see it necessary to identify whether the Consulting Agreement was his personal agreement or was entered into in his official capacity as the Executive Director of ATV;
- (d) he has never paid Mr Wong Ching any fee and Mr Wong Ching has never requested a fee, even though a monthly fee was to be paid to the consultant under the Consulting Agreement; and
- (e) his disclosure of "limited confidential information to Mr Wong Ching is legitimate and justified" on the basis that his

appointment letter allowed him to disclose confidential information with the consent of “Management”. Mr James Shing said that the word “Management” was not defined in his appointment letter. But a similar form of appointment letter was used to appoint certain ATV senior executives, and in these letters, “Management” was expressed to mean the Executive Director together with other relevant senior executives. Therefore, he asserted that he had the authority to disclose information to Mr Wong Ching.

24. By its letter to the Authority of 27 March 2012, ATV’s solicitors informed the Authority that in response to the Authority’s provisional findings, the ATV Board met on 26 March 2012 and resolved that the Consulting Agreement between Mr James Shing and Mr Wong Ching and the terms and arrangement contemplated thereunder and all actions taken by them pursuant to the terms and conditions of the Consulting Agreement were approved, confirmed and ratified in all aspects, and that Mr James Shing was authorised to disclose to Mr Wong Ching information relating to the ATV Group pursuant to the Consulting Agreement⁶.

(B) The Authority’s Assessment on the Role Played by Mr Wong Ching in the Control and Management of ATV

(1) Mr Wong Ching’s No-control Undertaking

25. In the No-control Undertaking submitted to the Authority, Mr Wong Ching undertook that he would not be “entitled to exercise *de facto* control over ATV”. The Authority had been concerned since March 2010 about whether Mr Wong Ching, who was neither a shareholder, a director nor a principal officer of ATV, and who had not sought approval from the Authority to exercise control over a domestic free television programme service licensee, was in fact exercising such control over ATV, and had expressed such concern to ATV. Thus, when ATV applied for approval of a shareholding change in June 2010, Mr Wong Ching, in order to allay the concern of the Authority, stated in support of ATV’s application that he had a strong commitment to provide financial support to ATV and that he would not be in a position to exercise any voting control over ATV once the

⁶ The solicitors for those ATV directors who had voted against the resolutions informed the Authority that Baker & McKenzie’s letter of 27 March 2012 did not provide a full account of the deliberations at the Board meeting on 26 March 2012. There was no mention in Baker & McKenzie’s letter that there had been strong opposition from certain directors to the resolutions that were passed and to the approach that ATV would adopt in handling the draft investigation report of 9 March 2012.

shareholding change had been completed. It was further stated that his role would be to give financial support by subscribing to convertible notes issued by ATV.

26. Not satisfied with a written assurance, the Authority demanded an undertaking from Mr Wong Ching that he would not exercise, not just voting control, but any *de facto* control of ATV. In his letter dated 15 July 2010, Mr Wong Ching confirmed, *inter alia*, that he would not otherwise have the power, by virtue of any powers conferred by the memorandum or articles of association or other instrument regulating ATV or any other corporation, to ensure that the affairs of ATV were conducted in accordance with his wishes. This confirmation letter was accompanied by a draft undertaking that Mr Wong Ching would not be entitled to exercise *de facto* control over ATV through Mr Wong Ben Koon. In the final version of the undertaking, the phrase “through Mr Wong Ben Koon” was deleted.

27. The history of the formulation of the No-control Undertaking clearly shows that the Authority was concerned about Mr Wong Ching’s possible attempt to unduly interfere with the management and operations of ATV and in so doing exercise *de facto* control of ATV from the outset. His role was that of an investor, and he should not, through a nominee or otherwise, attempt to unduly interfere with the management and operations, and in so doing exercise *de facto* control, of ATV with a view to ensuring that its affairs were conducted in accordance with his wishes.

28. In considering whether *de facto* control exists, the Authority has taken into account, in the present context given in particular the history of formulating the No-control Undertaking and the concerns relating to the corporate governance of ATV, all relevant circumstances and has come to its determination on the basis of the facts gathered.

(2) Evidence relating to Mr Wong Ching’s involvement in ATV’s day-to-day management and operations

29. The Authority has identified various incidents and occasions where Mr Wong Ching participated in the day-to-day management and operations of ATV. These incidents and occasions clearly indicate that Mr Wong Ching’s involvement in ATV’s management and operations manifested itself in different ways. Notable examples are highlighted below.

ATV's weekly management meetings

30. There is clear evidence from the records of ATV's weekly management meetings held between 4 January 2010 and 5 September 2011 that Mr Wong Ching repeatedly participated in these meetings. The key figures are set out below –

	Mr Wong Ching's attendance at ATV's Weekly Management Meetings	
	2010	2011 (up to 5 September)
Per Minutes Supplied by ATV and Interviewees ⁷	14 of 47	4 of 32

There is also clear evidence from the minutes of ATV's weekly management meetings that Mr Wong Ching has active and direct involvement in various aspects of the day-to-day management and operations of ATV. Relevant extracts are highlighted at **Appendix A**. Some notable examples include –

Management and operations

- (a) 王征先生訓示所有參加每周會議者，必需依時出席會議，未能出席者，須事先申請。
- (b) 王征先生表示要加強藝員的管理，規矩要嚴格執行，賞罰要分明。

Production, selection and scheduling of programmes

- (c) 王征先生指示要將某人士在港出席活動的情況製作成某節目的專輯，並指定專輯的播出時間。
- (d) 某選舉節目的候選人名單由王征先生作最後確定。
- (e) 王征先生訓示不能隨便承諾客戶播出日期，需向客戶明確講明亞視要保證節目的質量。

Sales and marketing

- (f) 王征先生訓示日後需按公司的規矩辦事並需於限期內完成某項目，要有完善的管理制度。

⁷ According to the Minutes Supplied by ATV and the Minutes Supplied by Interviewees, there were a total of 47 and 32 weekly management meetings held in 2010 and 2011 (up to 5 September) respectively.

Business development

- (g) 對於某節目的籌辦及贊助，王征先生以短訊指示不能讓步。

Statements and documentary information provided by the Interviewees

31. The Authority has also taken into account statements and documentary information given by several Interviewees who were interviewed individually that are consistent with and reinforce the evidence from the minutes of the weekly management meetings that Mr Wong Ching had active and direct involvement in the day-to-day management and operations of ATV. Relevant extracts are highlighted at **Appendix B**. Notable examples include –

Management and operations

- (a) 2010年4月開始，王征先生在亞視有自己的辦公室，並直接召見部門主管，在日常運作上提出很多要求和命令，例如節目編排、宣傳口號及宣傳重點等。
- (b) 王征先生出席(每周管理層例會)之時，會主導整個會議，不按議程，只討論他想批評的事。
- (c) 盛品儒先生雖為簽署文件及主持會議的人，但在行政會議上作決定的人是王征先生，而盛品儒先生從來不作決定。
- (d) 王征先生曾指令、指示及要求亞視員工跟從他的指示。王征先生並會責備部份亞視員工沒有跟從他的指示或員工所犯的錯誤。
- (e) 王征先生所給的指示非常廣泛，由員工紀律、節目、銷售、製作、節目編排，以至行政事宜均有作出指示。

Production, selection and scheduling of programmes

- (f) 2011年4月，鄭凱迎先生主持行政例會時發出指示，表明任何有關《走進上市公司》節目製作的決定，均需先請示王征先生。
- (g) 王征先生會邀請亞視員工去他在亞視的辦公室，或他的公寓開會，提出想做某些節目，並要求與會員工找時段播放該等節目。

Sales and marketing

- (h) 亞視的收視情況雖然並不理想，但王征先生仍決定大幅提高亞視的廣告收費。

Business development

- (i) 2010年底，王征先生在一次管理層例會上表明，亞視不應再沿用舊有的收視調查方式。亞視之後不跟原本聘用的收視調查公司續約，改聘一所大學每周替亞視進行收視調查。

Further representations from Messrs James Shing and Wong Ching

32. In response to the Authority's questions, Mr James Shing provided further representations to deny the direct involvement of Mr Wong Ching in ATV's day-to-day management and operations –

- (a) Mr Wong Ching would only offer advice if asked to do so by Mr James Shing. Mr James Shing as the Executive Director of ATV was always the one to make the ultimate decisions;
- (b) the minutes of weekly management meetings were mere summaries of the matters discussed at the meetings, and that the choice of words was made by the notes taker. Mr James Shing asserted that they should neither determine, nor form conclusive evidence as to, the nature of Mr Wong Ching's participation in the meetings. He further submitted that the phrases “指示” (“directs”) and “訓示” (“instructs”) were chosen by the notes taker when Mr Wong Ching expressed himself in a very solemn manner, and that the wordings “建議” (“suggests”) or “表示” (“says”) would be used when Mr Wong Ching gave his views in a relaxed way;
- (c) no principal officers of ATV had ever been instructed to report to Mr Wong Ching on their work. When ATV's officers explained the progress of their work to Mr Wong Ching, they were in reality either reporting on their work to Mr James Shing, or were doing so on Mr James Shing's instructions to give Mr Wong Ching feedback on his opinions; and
- (d) Mr James Shing submitted a statistical analysis to demonstrate Mr Wong Ching's limited involvement in ATV's weekly

management meetings. According to the Minutes Supplied by ATV, Mr Wong Ching only attended 21.4% of the meetings held in 2010 and 12.5% of the meetings held from 3 January to 5 September 2011. Even if the Minutes Supplied by Interviewees are taken into account, the attendance rates were 29.8% in 2010 and 12.5% in 2011. Mr James Shing also claimed that according to Minutes Supplied by ATV, Mr Wong Ching only participated in 0.9% of the items discussed at those meetings, or 2.2% of the discussion items if the Minutes Supplied by ATV and Interviewees were analysed.

33. In respect of his involvement in ATV's day-to-day management and operations, Mr Wong Ching's representations are similar to those made by Mr James Shing which are summarised in paragraphs 32 (a) and (c) above.

34. The Authority does not accept the explanations. The Authority's view is as follows –

- (a) the Minutes Supplied by Interviewees indicate that Mr James Shing seldom made decisions at the weekly management meetings. Mr Wong Ching's directions during the weekly management meetings were clearly recorded in the Minutes Supplied by Interviewees. In contrast, Mr James Shing's request for Mr Wong Ching's advice, his endorsement and ultimate decision based on Mr Wong Ching's "advice" were not recorded in those minutes;
- (b) all the Minutes Supplied by ATV and most of the Minutes Supplied by Interviewees (28 out of 49 sets) were signed by Mr James Shing himself. Mr James Shing indicated in his written submissions in December 2011 that he had signed the last versions of the minutes in order to signify that they were the last versions. Hence, the argument that the phrases "指示" ("directs") and "訓示" ("instructs") were simply the choice of words of the notes taker does not stand up to scrutiny;
- (c) the explanation that no principal officers of ATV had ever been instructed to report to Mr Wong Ching on their work is not consistent with the evidence collected from several Interviewees, which is summarised at **Appendix C**. In fact, Mr James Shing's own evidence is that the principal officers had indeed been asked to report to Mr Wong Ching, albeit on Mr James Shing's instructions (see paragraph 32(c) above);

- (d) the statistical analysis submitted by Mr James Shing confirms ironically that Mr Wong Ching had in fact extensively participated in ATV's weekly management meetings. Furthermore, all Interviewees consistently pointed out that Mr Wong Ching's involvement in ATV's affairs manifested itself in different ways. For example, Mr Wong Ching had his own office at ATV and he arranged meetings with ATV's senior executives. Thus, the frequency of Wong Ching's attendance at the weekly management meetings does not fully reflect the extent of his involvement in ATV's control and management.

35. The Authority also noted that –

- (a) the statements and written submissions of all former executives of ATV interviewed by the Authority support the allegation that Mr Wong Ching had exercised control of ATV in a wide range of areas. A number of them confirmed that they regarded Mr Wong Ching, not Mr James Shing, as the “boss” (“老闆”) and his views were taken as instructions, even in the absence of Mr James Shing expressing any view or giving any explicit endorsement on the matters. The instructions of Mr Wong Ching were decisive in the management and operations of ATV; and
- (b) ever since Mr James Shing's appointment as Executive Director, or at least since the beginning of 2011, he had been effectively vested with all the powers of the ATV Board. However, despite the breadth of his powers, according to the statements of several Interviewees and the minutes of the weekly management meetings, Mr James Shing did not in fact play a prominent or leading role in ATV. All Interviewees consistently pointed out that Mr James Shing was only a nominal figurehead, mainly responsible for signing documents and seldom participating in discussions amongst senior executives or making decisions. In contrast, Mr Wong Ching was allowed to play a prominent role in various matters concerning ATV, e.g. in suggesting the “programme project scheme” (“節目項目制”), the launch of “ATV Hong Kong Loving Hearts Campaign” (“感動香港”) and the decision regarding the CSM's Ratings Result. These allegations are supported by and/or consistent with the Minutes Supplied by Interviewees or by ATV.

(3) Mr Wong Ching as Mr James Shing's personal consultant

36. According to the submissions by ATV, Mr Wong Ching is only a personal consultant to Mr James Shing and has no official capacity at ATV as an employee or consultant of ATV. Mr Wong Ching denies exercising any control of ATV or giving directions to any ATV staff. Mr James Shing also claims that Mr Wong Ching is his personal consultant, and while he might ask Mr Wong Ching for suggestions, the final decisions are invariably made by him. In support of this explanation of their relationship, Mr James Shing refers to the Consulting Agreement, which stipulates that Mr Wong Ching shall have no direct right to or responsibility for controlling or directing the members of management, employees and officers of ATV and that advice and recommendations made by Mr Wong Ching may be accepted or rejected, and may be implemented or not implemented at Mr James Shing's sole discretion. Mr James Shing submits that such provisions should not be overlooked as they are part and parcel of the whole Consulting Agreement, and the summaries of the weekly management meetings showing Mr Wong Ching's involvement should be viewed by reference to them. In short, ATV does not deny the extensive involvement of Mr Wong Ching in the management and operations of ATV. Its case is that his involvement is justified by the Consulting Agreement, and in doing so, he merely acts as a personal consultant to Mr James Shing, who retains the control of ATV. It also argues that the No-control Undertaking is confined to not exercising any *de facto* control. It is not an undertaking not to participate in the management of ATV.

37. The Authority notes that, while on the face of the Consulting Agreement, Mr James Shing retains responsibility for all functions delegated to him by the ATV Board, the mere existence of the agreement does not constitute evidence that Mr Wong Ching is not exercising *de facto* control of ATV. Whether Mr Wong Ching has exercised *de facto* control is a matter of fact. The crux of the issue is –

- (a) the extent of Mr Wong Ching's involvement in the day-to-day management and operations of ATV;
- (b) whether Mr Wong Ching's involvement can be explained by his appointment as a personal consultant to Mr James Shing; and
- (c) whether the evidence shows an extensive involvement of Mr Wong Ching in the day-to-day management and operations of ATV that one can infer *de facto* control, which would then result in a breach of Mr Wong Ching's No-control Undertaking.

38. In this regard, the Authority notes that –

- (a) the rights of Mr Wong Ching under the Consulting Agreement, which are set out in the broadest terms, are far beyond those that would normally be expected of a personal consultant. The Consulting Agreement **obliges** Mr James Shing to give Mr Wong Ching access to all the premises and all books, documents, records, accounts, reports and information of or relating to ATV, including confidential and commercially sensitive information, and to all members of management, employees, consultants and advisors of ATV, as Mr Wong Ching may reasonably request to enable him to perform the obligations as Mr James Shing's personal consultant. Other than the need for Mr Wong Ching's requests to be reasonable, Mr James Shing has **no right** to control what information should be made available to Mr Wong Ching;
- (b) Mr James Shing confirmed that it was his sole decision to retain Mr Wong Ching as his personal consultant and that Mr Wong Ching has no official capacity at ATV. However, if there was a genuine need to engage Mr Wong Ching for a particular expertise that he has and to grant him broad and relatively unrestricted access to ATV's confidential and commercially sensitive information, one would expect ATV (which has the right to and interest in protecting that information) to engage him after considering whether it was in the best interest of the company to do so;
- (c) both Messrs James Shing and Wong Ching confirmed that Mr James Shing has not paid any fees to Mr Wong Ching for the consulting services provided since April 2010 when the obligation to pay monthly fees commenced. This is a very odd situation as both of them rely on the existence of the Consulting Agreement to explain the involvement of Mr Wong Ching in the day-to-day management and operations of ATV. This calls into question whether the agreement is a genuine contractual relationship between the two parties or merely a disguise;
- (d) Mr James Shing, by entering into the Consulting Agreement and giving such access to the confidential information of ATV, may have breached the terms of his appointment letter from ATV of 30 November 2010 as well as his general duties owed as an employee and director to preserve the confidentiality of

information relating to ATV's business. His appointment letter does not allow him to divulge to third parties ATV's trade secrets and confidential information obtained in the course of his employment without written permission of the "Management";

- (e) Mr James Shing claimed that the appointment letters of certain ATV senior executives allowed them to disclose confidential information with the consent of "Management" and that the word "Management" meant the Executive Director, together with other relevant senior executives. However, as Mr James Shing is himself the Executive Director, it appears illogical that the term in his appointment letter simply requires him to seek permission from himself when deciding whether to divulge confidential information of ATV to third parties. As his appointment was made by the ATV Board, it would be more logical for him to have sought consent from the ATV Board to divulge confidential information to third parties especially where, under the terms of the Consulting Agreement, he is granting to a third party, Mr Wong Ching, relatively unrestricted access to the confidential information of ATV. One would expect the full board of ATV to have had views at the time of the execution of the Consulting Agreement on whether this arrangement would be in the best interest of the company especially where as here there was and continues to be a dispute between certain directors and ATV over access to confidential information which has resulted in litigation; and
- (f) the ATV Board resolutions passed on 26 March 2012 neither altered the factual findings of what happened at ATV in 2010 and 2011, nor did they address the Authority's concerns about the true nature of the Consulting Agreement which are described in sub-paragraphs (a) to (e) above. If this resolution authorises the extensive involvement of Mr Wong Ching in the day-to-day management and operations of ATV, it could itself be evidence of breach of the No-control Undertaking given by Mr Wong Ching.

In the light of the above, the Authority considers that there is strong evidence suggesting that Mr Wong Ching assumed a role beyond the capacity of a personal consultant and that the appointment of Mr Wong Ching as Mr James Shing's personal consultant is a sham arrangement. It is merely a disguise to permit Mr Wong Ching, who has no executive or managerial position of any kind within ATV, to exercise *de facto* control over the day-to-day management and operations of ATV.

(4) *Representations of ATV concerning the credibility of the Interviewees*

39. In its representations submitted to the Authority in May 2012, ATV challenged the credibility of the statements and information provided by the Interviewees and submitted that these Interviewees were biased against ATV, Messrs James Shing, Kwong Hoi Ying and Wong Ching given their “vested interests, prejudiced motives and/or improper motives”. The Authority has taken into account ATV’s representations, and considers that it is appropriate for the Authority to have regard to and rely upon the evidence of the Interviewees in reaching its findings, for the following reasons –

- (a) the Authority primarily relies on the undisputed documentary evidence collected from ATV and the Interviewees during the investigation; it takes into account only those parts of the evidence of the Interviewees that are consistent with and/or reinforce the documentary evidence;
- (b) most of the facts are not in dispute. The discrepancies between the evidence of the Interviewees and that submitted on behalf of ATV, Messrs James Shing, Kwong Hoi Ying and Wong Ching are largely matters of perception and interpretation. In most cases it is unnecessary to resolve such conflicts. If it is necessary to resolve such conflicts, the Authority will only rely on the version that is supported by documentary evidence;
- (c) the Authority is fully aware of the relationship between the Interviewees and ATV, and has relied on objective facts that are capable of being objectively proved or contradicted rather than subjective judgements adduced by the Interviewees; and
- (d) for example, while ATV submitted that it was the Programme Department and not Mr Wong Ching, who decided the time slot to broadcast the “Hong Kong Loving Hearts” series, the Minutes Supplied by ATV and the Minutes Supplied by Interviewees clearly suggested that Mr Wong Ching had given instructions on the production of the programme and requested that specific episode be scheduled at a designated timeslot for broadcast (see items 6, 9 and 18 of Appendix A). This is consistent with the statements provided by the Interviewees. Likewise, while there were discrepancies on the nature of the weekly management meetings (which ATV argued were not for decision-making but a forum for coordination and exchange of information), ATV’s

version was not supported by the minutes, which show that many of the matters discussed at such meetings had not yet been decided by ATV (see, for example, items 10, 11 and 14 of Appendix A). Moreover, it was Mr Wong Ching's directions given at the weekly management meetings, and not those of Mr James Shing, that were recorded in the Minutes Supplied by ATV and the Minutes Supplied by Interviewees (see, for example, items 1, 4, 5, 7, 15, 16, 19, 21, 22, 23 and 24 of Appendix A).

40. The Interviewees' evidence relied upon by the Authority consists mostly of objective facts which are independently and objectively verifiable, and/or facts which are within the direct knowledge of ATV, its officers and staff. There is no difficulty for ATV, Messrs James Shing, Kwong Hoi Ying or Wong Ching to make representations to confirm or controvert the Interviewees' evidence, and they have been accorded ample opportunities to do so.

(5) *The Authority's conclusion on de facto control*

41. Mr Wong Ching is neither a shareholder, a Board director nor a principal officer of ATV. He is a financial investor of ATV and a holder of convertible bonds issued by ATV. He does not have any capacity or rights under the BO to exercise control of ATV. He gave the Authority a No-control Undertaking that he would not be "entitled to exercise *de facto* control over ATV". However, based on the evidence mentioned above, Mr Wong Ching was allowed to play a prominent role in various matters concerning ATV and his instructions were decisive in the management and operations of ATV. Such evidence shows –

- (a) Mr Wong Ching's extensive participation in ATV's weekly management meetings between 4 January 2010 and 5 September 2011 (see paragraph 30 above);
- (b) his advice on and direct involvement in various aspects of the day-to-day management and operations of ATV (see paragraphs 30 and 31 above);
- (c) the directions which he gave at ATV's weekly management meetings and the deference given to his "advice" by Mr James Shing, taking also into account that there was no functioning ATV Board at the time and Mr James Shing, on his own admission, was the only person who could handle the daily operations of ATV (see paragraph 34(a) above);

- (d) the principal officers of ATV reported to Mr Wong Ching on their work (see paragraph 31(a) above);
- (e) that Mr Wong Ching had his own office at ATV and he also arranged meetings with ATV's senior management (see paragraph 31(g) above);
- (f) the prominent role played by Mr Wong Ching in, for example, the "programme project scheme", the launch of the "ATV Hong Kong Loving Hearts Campaign" and the decision regarding CSM's Ratings Result (see Appendix B);
- (g) the broad rights given to Mr Wong Ching by the Consulting Agreement (under which he received no fees) and in particular the extensive access he was granted to confidential and commercially sensitive information about ATV and to ATV's staff and advisors (see paragraphs 38(a) and (c) above);
- (h) the attempts of Mr James Shing to play down the actual involvement of Mr Wong Ching in the weekly management meetings by the amendments to the relevant minutes (see paragraph 45 below);
- (i) the absence of an effective ATV Board which had not met for a long period of time (see paragraph 20 above); and
- (j) Mr Wong Ching's behaviour in receiving delegations and visitors to ATV and giving his vision on the development of ATV (see item 12 of Appendix B), which was a role that one would normally expect of someone in charge of ATV to assume. In the submission to the Authority dated 23 December 2011, Mr Wong Ching justified his doing so as an investor of ATV. While this may be justified if it were a one-off event, it has to be considered in the totality of evidence, particularly the extensiveness of his participation in the management and operations of ATV.

While there may be different explanations or interpretations for Mr Wong Ching's interference on individual occasions, what is important is that when the totality of the evidence is taken into consideration, the cumulative effect of his conduct shows clearly that he has unduly interfered with the management and operations of ATV, and in so doing exercised *de facto* control of ATV.

42. Indeed, there is no serious dispute on most of this evidence. The case of ATV and Mr Wong Ching is primarily that, as an investor, Mr Wong Ching has a legitimate interest, if not a right, to be concerned about the management and operations of ATV and that, as a personal consultant to Mr James Shing, he was granted a right to access to information of ATV and a right to participate in the management and operations of ATV so that he could properly advise Mr James Shing pursuant to the Consulting Agreement. On the first point, even if Mr Wong Ching has a significant financial interest in ATV, in the light of his No-control Undertaking he would have no rights to exercise control of ATV without the Authority's approval. On the second point, the Authority is not satisfied that the Consulting Agreement is a genuine consultancy agreement; rather it appears to be a mere disguise to legitimise or enable Mr Wong Ching to participate extensively in the management and operations of ATV. Having regard to all circumstances, and taking into account the cumulative effect of Mr Wong Ching's activities, the Authority finds, on a balance of probabilities, that **Mr Wong Ching has been exercising *de facto* control of ATV**. Accordingly,

- (a) Mr Wong Ching has breached the terms of the No-control Undertaking under which he undertook to the Authority that he would not be entitled to exercise *de facto* control of ATV; and
- (b) ATV as a licensee is in breach of Condition 10.1 of the ATV Licence for failing to comply with its Licensee's Proposal.

THE INVESTIGATION – “FIT AND PROPER PERSON” REQUIREMENT

(A) Question of Misleading the Authority

43. In the course of its investigation into the role of Mr Wong Ching in the control and management of ATV, the Authority has concerns over the “fit and proper person” status of ATV and certain officers of ATV.

(1) The Material discrepancies in the minutes of weekly management meetings held in 2011

44. The Authority identified material discrepancies between the Minutes Supplied by ATV and the Minutes Supplied by Interviewees relating to the 32 weekly management meetings held between January and September

2011. 16 of the 32 sets of Minutes Supplied by ATV were different from those supplied by the Interviewees, with all material discrepancies relating to Mr Wong Ching. On the other hand, no discrepancy was found between the versions of the minutes supplied by different Interviewees.

45. Six out of those 16 sets of Minutes Supplied by ATV contained material discrepancies in content involving deletions which have the effect of downplaying the involvement of Mr Wong Ching in the deliberations. Moreover, 13 sets⁸ contained discrepancies with the name of Mr Wong Ching deleted from the “absent with apology” column. The highlights are set out in **Appendix D**.

(2) The Omission of five other sets of minutes of weekly management meetings held in 2010

46. ATV provided to the Authority on 27 October 2011 the minutes of 42 weekly management meetings held in 2010. On 7 November 2011, the Authority asked ATV to confirm whether the Minutes Supplied by ATV constituted the complete set of minutes for all weekly management meetings held in the year of 2010. On 10 November 2011, ATV submitted that, as those records were kept by its former in-house corporate lawyer and company secretary, the set of meeting minutes it had supplied might not be complete. Nevertheless, ATV confirmed that it had provided the available minutes to the Authority.

47. Separately, the Authority has obtained from several Interviewees, as part of the Minutes Supplied by Interviewees, copies of the minutes of five weekly management meetings held on 27 September, 11 October, 25 October, 2 November and 7 December 2010 which were omitted from the Minutes Supplied by ATV. The Authority noted from the content of these minutes that Mr Wong Ching had played a particularly prominent role at all these meetings and more so than at the other meetings which were recorded in the Minutes Supplied by ATV. According to the Minutes Supplied by Interviewees which related to meetings in 2010, Mr Wong Ching directed (“指示”) or instructed (“訓示”) ATV staff at the weekly management meetings

⁸ Three of these 13 sets of minutes also contained content discrepancies involving Mr Wong Ching’s participation in the deliberations.

on 11 occasions, and nine of those occurred in the five meetings for which ATV had not provided minutes.

(3) Mr Kwong Hoi Ying as “Acting CEO of ATV”

48. There were media reports in September and October 2011 that Mr Kwong Hoi Ying, the then Senior Vice President – Corporate Development and External Affairs of ATV⁹, had been promoted to “Acting CEO” of ATV and exercised power in such a capacity. The Authority sought clarifications from ATV in October 2011. Mr James Shing submitted on behalf of ATV that Mr Kwong Hoi Ying had not been given the formal title of “Acting CEO” or “Acting Vice CEO” but that his assistance was sought on certain management aspects from time to time. However, according to relevant statements of certain Interviewees, they believed that Mr Kwong Hoi Ying had been promoted to “Acting CEO” of ATV and they considered that he had been exercising power in that capacity. Whilst Mr Kwong Hoi Ying’s job had remained unchanged, he held himself out as “Acting CEO” in his communications with ATV staff and externally. In addition, it is noted that Mr Kwong Hoi Ying was referred to as “Acting CEO” in the following scenarios –

- (a) Mr Kwong Hoi Ying was a speaker in a lecture organised by City University of Hong Kong on the topic “ATV’s New Approach to Television Audience Measurement: Methods, Results and Challenges”. The promotional flyer for the lecture explains that Mr Kwong Hoi Ying “currently leads ATV in the capacity of Acting CEO”;
- (b) Mr Kwong Hoi Ying was referred to as the “Acting CEO” (代總裁) three times by the host Mr Ip Ka Po (葉家寶) at the all staff meeting of ATV held on 22 August 2011; and
- (c) rundowns for ATV’s receptions for the Mainland guests provided by some of the Interviewees indicated that Mr Kwong Hoi Ying had been consistently referred to by the title “Acting CEO” (“代總裁” or “代理總裁”).

⁹ Mr Kwong Hoi Ying retired from ATV in July 2013.

49. The above findings raised the question as to whether the person(s) involved should still be considered “fit and proper person” under the BO. It is a serious matter for a director or a principal officer of a licensee to approve or condone the provision to the Authority of information that he knows to be false or misleading. In particular, section 21(4)(b) of the BO provides that in determining whether a licensee or a person exercising control over a licensee (as a director or a principal officer) is a “fit and proper person”, account shall be taken of “the record of the licensee or person in situations requiring trust and candour”. A person who tries to mislead the regulator by giving false or misleading information would generally not be considered to be a “fit and proper person” to hold a senior management position in the regulated entity.

(B) Representations of Relevant Officers of ATV

(1) The Material discrepancies in the minutes of the weekly management meetings held in 2011

50. Mr James Shing submitted the following –

- (a) for the Minutes Supplied by ATV, Mr James Shing admitted that they were provided to ATV’s solicitors upon his instructions;
- (b) the minutes were merely summaries of the matters discussed at the meetings, and therefore different people might have different viewpoints on how the matters should be summarised. If he considered that the minutes did not accurately reflect what was discussed at the meetings, he might allow amendments to be made for the record. If the amendments to the minutes were not important, they need not be re-circulated to the participants of such meetings. If amendments had been made, the prevailing¹⁰ (amended) minutes should be the version supplied to the Authority;
- (c) the Minutes Supplied by Interviewees appeared to be the same as the minutes that would have been received by certain participants when they were initially¹¹ circulated. However, this did not mean that the minutes initially circulated correctly recorded all discussion items or were the final version of the minutes;

¹⁰ The word is underlined as per Mr James Shing’s submission to the Authority.

¹¹ The word is underlined as per Mr James Shing’s submission to the Authority.

- (d) the signature on the Minutes Supplied by Interviewees appeared to be his signature. But signing on the minutes did not amount to confirmation that all the management executives agreed on how the matters were summarised;
- (e) regarding the identity of the person who made the amendments and authorised the amendments, Mr James Shing explained that the amendments were proposed by the Interviewed Director. Upon reviewing the minutes, the Interviewed Director was of the view that the references to Mr Wong Ching might not be entirely correct and might lead to misunderstanding. Mr James Shing further submitted that the Interviewed Director discussed with him orally two to three times on the need to amend the minutes and there were no written documents or correspondence on this. The Interviewed Director did not set out any criteria for Mr James Shing to make amendments;
- (f) regarding the reasons and circumstances for making such amendments, Mr James Shing explained that according to the Interviewed Director's understanding, the records of the meetings did not reflect correctly the facts that Mr Wong Ching participated in the meetings merely as a personal consultant of Mr James Shing and that the relevant matters also involved responsible personnel of ATV (i.e. not only Mr Wong Ching). Therefore singling out Mr Wong Ching in the minutes was neither appropriate nor accurate. The Interviewed Director's views on this matter were considered and then accepted by Mr James Shing;
- (g) Mr James Shing decided which sets of minutes were to be amended and he did not conduct verification and clarification of what Mr Wong Ching had actually said at the meetings vis-à-vis the minutes. He did not consider it necessary to do so as he was present at the relevant meetings. Also, Mr James Shing could not recall the exact dates on which he amended the six sets of minutes of 2011, but he believed that it should have taken place before the Authority requested copies of them in August 2011;
- (h) Mr James Shing did not re-circulate the six sets of revised minutes to the participants. Mr James Shing explained that the amendments were made probably weeks after the relevant

meetings were held and many of the matters discussed at such meetings had been overtaken by events. However, Mr James Shing claimed that it was necessary to revise these minutes so that the records in ATV's internal filing system were accurate without causing any misunderstanding;

- (i) on why Mr Wong Ching was not recorded as "absent with apology" in the Minutes Supplied by ATV, Mr James Shing explained that the expression "absent with apology" should not apply to Mr Wong Ching in the minutes for meetings in 2011. The person who was responsible for preparing the minutes thought that Mr Wong Ching had been invited to attend those meetings and therefore included Mr Wong Ching in the list of those "absent with apology". This was incorrect and therefore amendments were made to the minutes by deleting the references to Mr Wong Ching from the list of those "absent with apology"; and
- (j) Mr James Shing pointed out that several sets of the minutes for meetings in 2010 in the Minutes Supplied by ATV recorded Mr Wong Ching as being "absent with apology". The fact that no amendments had been made to these records before submission to the Authority showed that ATV had no intention whatsoever to mislead the Authority. He admitted that amendments should have been made to the 2010 minutes as in the case of the six sets of revised minutes of 2011 because the former also included misleading references to Mr Wong Ching. But he pointed out that the events recorded in the 2010 minutes had become dated and there was no urgency to revise the 2010 minutes.

51. Mr Kwong Hoi Ying submitted the following –

- (a) he had no idea as to why there were different versions of minutes of ATV's weekly management meetings. While Mr Kwong Hoi Ying was not able to decide whether the Minutes Supplied by Interviewees were true copies of the minutes of the meetings, he confirmed that they were the same copies he had received from the notes taker;
- (b) the signature on the set of Minutes Supplied by Interviewees seemed to be that of Mr James Shing;

- (c) for the Minutes Supplied by ATV, Mr Kwong Hoi Ying had no idea whether amendments had been made to them before their submission to the Authority and if so, the reasons and circumstances for making such amendments; and
- (d) regarding the phrase “absent with apology” that was not recorded in respect of Mr Wong Ching in the Minutes Supplied by ATV, Mr Kwong Hoi Ying stated that he believed the Executive Director invited Mr Wong Ching to attend those meetings and it was appropriate to indicate in the minutes of those meetings, by standard wording, that Mr Wong Ching was absent.

52. The Interviewed Director submitted the following at the interview with the Authority¹² –

- (a) the purpose of the weekly management meetings was not to make decisions. These meetings were largely of an operational nature at which the senior management exchanged information on the progress of projects already decided by ATV. ATV had internal procedures for making operational decisions¹³;
- (b) the minutes were mere summaries of the matters discussed at the weekly management meetings. They were prepared for the purposes of facilitating continual discussions at the meetings. Mr James Shing signed on the minutes only to signify his approval for the circulation of minutes to the participants of such meetings. Amendments could be made after receiving comments from the participants. If amendments had been made, the revised minutes would not be re-circulated but only filed in ATV’s internal filing system;
- (c) the Interviewed Director verbally suggested (two to three times) to Mr James Shing that the wording of certain minutes should be amended and that probably took place before July 2011. The Interviewed Director admitted that he was only in attendance at some of the meetings and could not have known what Mr Wong Ching had said at the meetings which he did not attend;

¹² The Authority has reviewed the full transcript of the interview with the Interviewed Director, which was included in ATV’s affirmation submitted to the Court, in the course of the judicial review proceedings.

¹³ The originating department is to submit the proposal and set out the necessary information in the document. The person-in-charge of the relevant department is expected to express his/her comments or sign-off if he/she sees appropriate. Then Mr James Shing, upon seeing the approval or sign-off of the relevant department persons-in-charge, will confirm where necessary.

- (d) the minutes did not reflect correctly the fact that Mr Wong Ching participated in these meetings as a personal consultant to Mr James Shing and might lead to misunderstanding. Since the minutes only served to summarise the matters discussed but not what each of the participants had said, it was not appropriate to single out Mr Wong Ching's remarks in the minutes. On why "absent with apology" was not recorded in respect of Mr Wong Ching in the minutes, the Interviewed Director explained that Mr Wong Ching had no capacity to attend all the meetings and there was no fixed attendance at each meeting. Therefore, it was not necessary to indicate in the minutes that Mr Wong Ching was absent; and
- (e) the Interviewed Director had no idea as to whether Mr James Shing had conducted verification or clarification of what Mr Wong Ching had actually said at the meetings. Nor did the Interviewed Director know why no amendments were made to the minutes of 2010 as in the case of the six sets of revised minutes of 2011, even though the 2010 minutes made reference to Mr Wong Ching's involvement in the daily operations of ATV. The Interviewed Director considered that the 2010 minutes should have been amended consequentially to ensure consistency.

(2) The Omission of five other sets of minutes of weekly management meetings held in 2010

53. Mr James Shing submitted the following –

- (a) the Minutes Supplied by ATV were provided to ATV's solicitors upon the instructions of Mr James Shing;
- (b) the records available to Mr James Shing might not be complete due to changes in the personnel who kept the records. Since each participant of the meetings was expected to note the discussion conclusions on the tasks or actions he/she had to perform without having to rely on the minutes, the absence of a few sets of minutes from Mr James Shing's records would not affect ATV's operations;
- (c) Mr James Shing was not able to advise on whether the relevant minutes in the Minutes Supplied by Interviewees were true copies

of the minutes of the relevant meetings, as these minutes were not in his records. He requested the disclosure of the identity of the “other parties” in order for him to assess the reliability of those minutes;

54. Mr Kwong Hoi Ying submitted the following –

- (a) Mr Kwong Hoi Ying was still in possession of the minutes of the five weekly management meetings which were not amongst those provided by ATV;
- (b) the signature on the set of Minutes Supplied by Interviewees seemed to be that of Mr James Shing; and
- (c) for the Minutes Supplied by Interviewees, Mr Kwong Hoi Ying confirmed that they were the same as the copies he received from the notes taker.

(3) Mr Kwong Hoi Ying as “Acting CEO of ATV”

55. Mr James Shing submitted the following –

- (a) Mr Kwong Hoi Ying was never appointed as “Acting CEO” and his title had remained Senior Vice President – Corporate Development and External Affairs;
- (b) Mr James Shing had sought Mr Kwong Hoi Ying’s assistance to effect coordination among Senior Vice Presidents and Vice Presidents of ATV in the first quarter of 2011. Such assistance was needed particularly when Mr James Shing was absent from Hong Kong or engaged heavily in some programmes and projects of ATV. Besides, Mr James Shing sometimes requested Mr Kwong Hoi Ying to brief him on the matters put forward by other senior executives and go through the agenda items at ATV’s weekly management meetings. Having said that, the senior executives of ATV were not instructed to report to Mr Kwong Hoi Ying or follow his directions if such directions had not been discussed with and approved by Mr James Shing. The final decision making authority rested with Mr James Shing;
- (c) regarding the role of Mr Kwong Hoi Ying in assisting management of ATV, Mr James Shing explained that the main

purpose was to ensure that the senior executives would receive instructions made by Mr James Shing or understand his decisions in a timely manner when it was not convenient for Mr James Shing to convey the instructions and decisions to each of the relevant executives when he was outside Hong Kong. This did not confer upon Mr Kwong Hoi Ying the power to make his own instructions and decisions;

- (d) as Mr Kwong Hoi Ying's assistance in the coordination was not a permanent or standing arrangement, there was no internal circular or public announcement issued by ATV for such an arrangement;
- (e) regarding rundowns for ATV's receptions for the Mainland guests describing Mr Kwong Hoi Ying as “代理總裁” or “代總裁”, Mr James Shing admitted that he had asked Mr Kwong Hoi Ying to use the designations for the limited purposes of receiving guests from the Mainland. Since people from the Mainland knew the term “總裁” better than “執行董事” and Mr Kwong Hoi Ying's formal title was not “總裁”, Mr James Shing imagined Mr Kwong Hoi Ying might leave a better image with the Mainland guests if he bore the designations “代理總裁” or “代總裁” in receiving these guests. As Mr James Shing realised that these titles, even if they were used in very restricted occasions, might cause confusion, he has decided that the titles should never again be used for Mr Kwong Hoi Ying;
- (f) regarding the flyer of the City University of Hong Kong lecture introducing Mr Kwong Hoi Ying as Acting CEO, Mr James Shing explained that since he had asked ATV's public relations team to use “代理總裁” or “代總裁” as Mr Kwong Hoi Ying's designations in the rundown for receiving some guests from the Mainland, the staff member who handled Mr Kwong Hoi Ying's participation in the said lecture made a mistake in expressing Mr Kwong Hoi Ying's title; and
- (g) regarding the general staff meeting hosted by Mr Ip Ka Po in which Mr Kwong Hoi Ying had been referred to as Acting CEO, Mr James Shing explained that Mr Kwong Hoi Ying attended the meeting as Senior Vice President but not as Acting CEO. The name tag put in front of him was clear evidence for this. As “Acting CEO” had been used a few times as Mr Kwong Hoi Ying's title in receiving guests, Mr Ip Ka Po made a mistake in introducing Mr Kwong Hoi Ying by this title at the meeting.

56. Mr Kwong Hoi Ying submitted the following –

- (a) he was never appointed as Acting CEO and his title had remained Senior Vice President – Corporate Development and External Affairs;
- (b) he had been assigned to assist Mr James Shing in coordinating among Senior Vice Presidents and Vice Presidents of ATV in the first quarter of 2011. But Mr James Shing communicated directly with such Senior Vice Presidents and Vice Presidents and did not always require Mr Kwong Hoi Ying to coordinate;
- (c) he would coordinate and pass the Executive Director's instructions and directions to Senior Vice Presidents and Vice Presidents. Senior Vice Presidents and Vice Presidents were not requested to report to Mr Kwong Hoi Ying or take his instructions and directions with regard to their work in ATV. The final decision-making authority was that of the Executive Director;
- (d) neither an internal circular nor a public announcement was issued regarding the assignment to Mr Kwong Hoi Ying as there was no fixed or formal pattern to the coordination that he was requested to perform;
- (e) he was given the designation for the limited purposes of receiving guests from the Mainland. Mr James Shing explained to Mr Kwong Hoi Ying that people from the Mainland knew the term “總裁” better than “執行董事”. As Mr Kwong Hoi Ying's formal title was not “總裁”, Mr James Shing did not want to leave a mistaken impression to the Mainland guests that ATV was not sending someone senior to receive them;
- (f) he had mistakenly used the title “Acting CEO” in one piece of his correspondence with the City University of Hong Kong in relation to the lecture referred to above. He explained that his former secretary may have used the title based on his correspondence and also based on the title used in the earlier reception of a Mainland guest in January 2011. Mr Kwong Hoi Ying did not pay much attention to the preparation of the flyer as he had delegated this sort of administrative matter to his former secretary. Mr Kwong Hoi Ying did not open emails before the

flyer was finalised and distributed, even though his former secretary had copied him in her emails with the City University of Hong Kong;

- (g) the designations “代理總裁” or “代總裁” were not used internally. For example, the internal memo sent by ATV’s Public Relations department in January 2011 regarding Community Chest’s Walks for Millions addressed Mr Kwong Hoi Ying by his title at that time (Senior Vice President); and
- (h) at the all staff meeting, the name tag on the table showed Mr Kwong Hoi Ying’s official title to be “Senior Vice President” instead of “Acting CEO”. Mr Ip Ka Po had made a slip of the tongue when he referred to Mr Kwong Hoi Ying by the title Acting CEO at the meeting. As explained above, the designation “Acting CEO” was given to Mr Kwong Hoi Ying for a very limited purpose of receiving the Mainland guests.

(C) The Authority’s Assessment on “Fit and Proper Person” Requirement

57. The Authority noted with serious concern the inconsistencies and discrepancies found in the information and/or documents provided by the licensee (ATV), its Executive Director (Mr James Shing) and its principal officer (Mr Kwong Hoi Ying) and that Mr Wong Ching had been allowed to play a prominent role in the day-to-day management and operations of ATV. These findings raise issues as to –

- (a) whether Messrs James Shing and Kwong Hoi Ying had properly performed their roles in the management of a licensed broadcaster or had allowed a third party who had not been assessed for “fitness and properness” to unduly interfere with the management and operations of ATV;
- (b) whether any false or misleading information and/or documents had been provided to the Authority by Messrs James Shing or Kwong Hoi Ying or both of them (as the case may require) in the course of the investigation;
- (c) if the answer to (a) and/or (b) is yes, whether the person who was involved should still be considered to be a “fit and proper person” in accordance with section 21 of the BO; and

- (d) if a director or a principal officer of ATV is determined by the Authority not to be a “fit and proper person” under section 21, whether ATV itself should also be regarded as not a “fit and proper person” under section 21.

(1) “Fit and proper person” status of Mr James Shing

His role in the management of ATV

58. Mr James Shing became a director of ATV on 4 March 2010 and an employee of ATV with effect from 1 November 2010 (according to his letter of appointment issued by ATV on 30 November 2010). Thus, he owed duties to ATV both as an employee and a director.

59. The Authority has found that Mr James Shing had granted Mr Wong Ching virtually unrestricted access to ATV, its management meetings and information about its business, including confidential and commercially sensitive information, without first obtaining the approval of the ATV Board. The extent of Mr Wong Ching’s participation and right of access to documents have gone far beyond what one may reasonably expect of a personal consultant. At its meeting on 26 March 2012, the ATV Board sought to approve Mr James Shing’s actions; but this retrospective approval could not alter the factual findings of what happened at ATV in 2010 and 2011. Mr James Shing had been instrumental in permitting Mr Wong Ching, a non-director, to have access to important and confidential information relating to the business of ATV which may not be available to other directors, and the extent of Mr Wong Ching’s participation shows clearly that he has unduly interfered with the management and operations of ATV, and in so doing exercised *de facto* control of ATV.

60. The entry by Mr James Shing into the Consulting Agreement and the practical operation of this arrangement (involving Mr Wong Ching’s attendance and issue of various directions at the weekly management meetings) raises at least the following serious concerns as to whether he is a “fit and proper person” to be exercising control of ATV in accordance with section 21 of the BO –

- (a) when an individual is assessed to be “fit and proper” to be exercising control of a television programme service licensee, the implicit assumption is that he will not allow a third party who has

not been assessed for “fitness and properness” to unduly interfere with the management and operations of a licensee; and

- (b) he has shown disregard for his duty of confidentiality which he owes to ATV and his duty to act in its best interest.

61. The Authority is not suggesting that there is anything wrong in Mr James Shing properly delegating work to his subordinates or seeking their recommendations on important issues affecting ATV, or in seeking specialist advice where appropriate. However, it is a matter of extent. What is improper is for Mr James Shing to allow Mr Wong Ching, who has no executive or managerial position of any kind within ATV and who, as Mr James Shing is fully aware of, is not permitted to exercise *de facto* control of ATV under the No-control Undertaking which also constituted part of the Licensees’ Proposal, to have extensive access to information and staff and to unduly interfere with the management and operations, and in so doing exercise *de facto* control, of ATV.

Provision of misleading information

62. The Authority considers that there is strong evidence suggesting that Mr James Shing misled the Authority by providing the Authority “corrected” versions of the minutes of certain weekly management meetings held in 2011. The factors taken into account by the Authority in coming to this view include –

- (a) all material discrepancies identified in the 16 sets of Minutes Supplied by ATV were related to Mr Wong Ching. Since Mr James Shing was fully aware that such minutes would be considered by the Authority in its investigation of the role played by Mr Wong Ching in the control and management of ATV, there is strong reason to suggest that Mr James Shing may have tried to hide from the Authority the true nature and extent of Mr Wong Ching’s role and participation in ATV;
- (b) Mr James Shing admitted that the set of minutes obtained by the Authority from the Interviewees bore signatures that appeared to be his. In his submission to the Authority in December 2011, Mr James Shing indicated that he signed on the last versions of the minutes in order to signify that they were the last versions. His signature on the relevant minutes containing references to the participation of Mr Wong Ching should therefore indicate his approval and agreement to their content including such references;

- (c) Mr James Shing admitted that the six sets of minutes for the weekly management meetings held on 31 January, 28 February, 14 March, 26 April, 3 and 24 May 2011 amongst the Minutes Supplied by Interviewees were the same as those that would have been received by certain participants (in the relevant meetings) by circulation. Mr James Shing explained that after the six sets of minutes were initially¹⁴ circulated, he had made amendments to those minutes at the suggestion of the Interviewed Director for the reason that those minutes might not be entirely correct and might lead to misunderstanding. If the minutes were inaccurate, Mr James Shing could have amended their wording to make the correction. However, Mr James Shing chose to simply delete all references related to Mr Wong Ching from those minutes;
- (d) contrary to what Mr James Shing and the Interviewed Director have submitted, there is clear evidence from the records of ATV's weekly management meetings that major decisions in respect of the day-to-day management and operations of the company were made at such meetings. Also, the records show that many of the matters discussed at these meetings had not yet been decided by ATV and the subject officers of ATV took the opportunity to obtain instruction and advice in respect of ATV's operations, including programming plans, management issues, business development, sales matters and external relations, at the meetings;
- (e) the instructions and remarks made by many participants including Mr James Shing, Mr Kwong Hoi Ying and Ms Nancy Hu (the former CEO) were clearly recorded at the relevant meetings. The Interviewed Director's claim that singling out Mr Wong Ching in the minutes is not consistent with the normal practice is not credible;
- (f) Mr James Shing has made conflicting representations to the Authority about the purpose of amending the minutes. On the one hand, he stated that there was a need to amend the 2011 minutes to reflect what actually happened at the meetings and to make sure the records in the internal filing system were accurate without causing any misunderstanding. On the other hand, he stated that the minutes of weekly management meetings were not important records and the minutes were amended probably weeks

¹⁴ The word is underlined as per Mr James Shing's submission to the Authority.

after the relevant weekly management meetings had taken place. He did not re-circulate the six sets of revised minutes to the participants. This being the case, ATV would not be able to clarify the alleged misunderstanding with the participants. This is against the normal practice that one would have expected from a company for maintaining its internal records;

- (g) there is clear evidence from the records of certain meetings held in 2010 that Mr Wong Ching participated in the day-to-day management and operations of ATV. The fact that no amendments had been made to these records and the explanation given by Mr James Shing (i.e. the events concerned had become dated and there was no urgency to revise them) is contradictory to his claim that it was necessary for ATV to revise the 2011 minutes so that the records in the internal filing system were accurate without causing any misunderstanding; and
- (h) despite having amended the minutes, Mr James Shing was unable to recall when the amendments were made but merely asserted that they were made prior to the Authority's request for records.

63. In the light of the above, the Authority does not find the explanation of Mr James Shing for "correcting" the minutes credible or convincing. The Authority considers, on a balance of probabilities, that Mr James Shing had either made the amendments, or allowed amendments to be made to the minutes of the relevant weekly management meetings held in 2011 to conceal the true nature and extent of Mr Wong Ching's participation at those meetings. Mr James Shing may have wished the Authority, when it was investigating Mr Wong Ching's involvement, to see only the "corrected" versions of the minutes which concealed the true extent of Mr Wong Ching's involvement in the meetings. As a director of ATV at the time, Mr James Shing should know about the terms of the No-control Undertaking and that, if Mr Wong Ching became involved in the control and management of ATV, his conduct would potentially result in a breach of the licence condition by ATV with serious consequences for ATV.

64. In respect of ATV's failure to submit the minutes of five weekly management meetings held in 2010 where Mr Wong Ching had given a series of instructions to staff, there is strong reason to suggest that Mr James Shing may have withheld the minutes in an attempt to conceal the nature and extent of Mr Wong Ching's involvement at those meetings. It is no coincidence that all these sets of minutes contained records of extensive involvement of Mr

Wong Ching. It is rather convenient that ATV has lost precisely these sets of minutes as a result of personnel change when it could easily have obtained copies from Mr Kwong Hoi Ying. At the very least, as the Executive Director, he must be held responsible for failing to use his best endeavours to ensure the accuracy and completeness of the information furnished to the Authority.

65. In view of the above, the Authority **finds that Mr James Shing is no longer a “fit and proper person” for the purpose of section 21 of the BO.**

(2) “Fit and proper person” status of Mr Kwong Hoi Ying

His use of the title “Acting CEO”

66. In respect of the use of the title “Acting CEO”, Mr Kwong Hoi Ying submitted that he was not given the formal title of “Acting CEO” although he had been assigned by Mr James Shing to assist in certain management aspects. He explained that the title of “Acting CEO” had been used by him for the purpose of receiving the Mainland visitors. He also explained that both the ATV staff who handled his participation at the lecture organised by the City University of Hong Kong and Mr Ip Ka Po made a mistake due to the confusion arising from his use of that title in receiving the Mainland visitors. The Authority doubts the explanations for the following reasons –

- (a) according to information supplied by relevant Interviewees, Mr Kwong Hoi Ying had been using the title “Acting CEO” of ATV in such a way that it gave ATV staff the impression that he had been promoted to this position. He also acted as if he held that position;
- (b) Mr Kwong Hoi Ying admitted that he had allowed himself to be described as “Acting CEO” in his communications with visitors from the Mainland and to an audience attending a seminar on the business of ATV at a local university. He also used the title in correspondence with the particular university. There is evidence that the use of the “false” title of “Acting CEO” may have caused confusion to staff of ATV, to visitors from the Mainland and to the audience at a university function about the business of ATV, and most probably also to others who have had dealings with ATV;

- (c) Mr Kwong Hoi Ying submitted that at the all staff meeting, the name tag showing his official title was “Senior Vice President” but not “Acting CEO” and that Mr Ip Ka Po had only made a slip of the tongue when he referred to Mr Kwong Hoi Ying as “Acting CEO”. Even if this were true, he failed to explain why he had not taken immediate steps to correct any misunderstanding about his position; and
- (d) whilst Mr Kwong Hoi Ying was not a director of ATV, he was nevertheless a nominated, and approved “principal officer” which means that he was performing managerial functions at a senior level in the broadcaster and was reporting either directly or indirectly to the ATV Board. Given his seniority, he should have known that it was wrong to allow himself to be held out as “Acting CEO”.

67. Given that Mr Kwong Hoi Ying held one of the most senior positions in ATV at the material times, Mr Kwong Hoi Ying’s behaviour in allowing himself to be described as “Acting CEO” and his failure to be candid in his responses to questions from the regulator raise concerns on whether he is “fit and proper” to remain a “principal officer” of a licensed broadcaster.

68. On the other hand, the Authority notes that Mr Kwong Hoi Ying’s behaviour took place in a highly unusual corporate structure: the ATV Board had ceased to function and was effectively defunct. It had apparently delegated its executive responsibilities to Mr James Shing who in turn had allowed an outsider, Mr Wong Ching, with no position in the company, to unduly interfere with its day-to-day management and operations, and in so doing exercise *de facto* control, of ATV. The corporate governance of ATV had clearly been very poor and there was scope for misunderstanding as to the roles that senior executives were fulfilling. The indications are that Mr James Shing asked Mr Kwong Hoi Ying to convey his messages and coordinate matters among ATV senior executives when he was out of Hong Kong but both of them denied that Mr Kwong Hoi Ying was ever given real executive power to give directions and instructions by exercising his own discretion when Mr James Shing was absent. While the Authority had doubts about the truthfulness of the explanation given by Mr Kwong Hoi Ying, on the materials available, the Authority is unable to infer from the answers given to the Authority that Mr Kwong Hoi Ying had misled the Authority in its investigation.

His role in the management of ATV

69. Based on the evidence and information available, the Authority considers that Mr Kwong Hoi Ying should have been fully aware of the role played by Mr Wong Ching in the management and operations of ATV. Specifically, Mr Kwong Hoi Ying had been acting in collaboration with Mr James Shing in permitting Mr Wong Ching, who has no position of any kind within ATV, to unduly interfere with the day-to-day management and operations, and in so doing exercise *de facto* control, of ATV. Nevertheless, in view of the highly unusual corporate environment of ATV, the Authority could not discount the possibility that Mr Kwong Hoi Ying could have been constrained by his position as a subordinate of Mr James Shing and an employee of ATV when performing his role in the management of ATV and in his deliberations with the Authority. While the Authority has doubts over the explanations given by Mr Kwong Hoi Ying, the Authority is unable to infer from the answers given to the Authority that Mr Kwong Hoi Ying had failed to properly perform his role in the management of ATV and had misled the Authority in its investigation.

His role in the misreporting of news on the death of a former National Leader incident

70. In assessing whether Mr Kwong Hoi Ying should be considered a “fit and proper person”, the Authority has revisited his role in the misreporting of news on the death of a former National Leader (Mr Jiang Zemin). In its investigation report for that case, the Authority made the following finding –

“Shortly after 6 pm (on 6 July 2011), i.e. during the broadcast of “6:00 News”, Mr Kwong Hoi Ying, Senior Vice President (Corporate Development and External Affairs) of ATV called Ms Tammy Tam Wai-yi (譚衛兒), Vice President (News and Public Affairs) of ATV by phone and prompted her to report the news on Jiang’s death. During the phone conversation, Mr Kwong told Ms Tam that he had received reliable information about the death of Mr Jiang and requested Ms Tam to report the news in the “6:00 News” as soon as possible; Mr Kwong assured Ms Tam that he/ATV would shoulder the responsibility of reporting the news and told her not to worry about reporting the death news.”

In his representations to the Authority for that investigation, Mr Kwong Hoi Ying admitted that he had spoken with Ms Tam Wai Yi but denied having

prompted her to report the death news. The Authority found, on a balance of probabilities, the representations made by other parties more credible and rejected Mr Kwong Hoi Ying's version of how the events unfolded. However, there was insufficient evidence to support a finding that Mr Kwong Hoi Ying had misled the Authority.

71. The Authority also made the following observation in its investigation report for the misreporting incident –

“ATV had also made conflicting representations to the Authority about the sources of the story –

- (a) in its letters of 24 August and 22 September 2011 signed by Mr Kwong, ATV stated that its news team had relied on an outside source which it believed to be reliable at the material time;*
- (b) in its letter of 25 October 2011, ATV stated that its “news team must have relied on one or more sources” but then made the contradictory statement at the end of the letter that the author, Mr Kwong, is “not in a position to tell whether our news team had relied on one or multiple sources for the News”;*
- (c) in its letter of 7 November 2011, ATV stated that it had asked Mr Leung Ka Wing (梁家榮), Ms Tammy Tam and other members of the news team before responding to the Authority but they refused to disclose details of the outside sources they had checked due to ethical norms of journalism. This was again different from the representations in ATV's earlier letters of 24 August, 22 September and 25 October 2011.*

Given the conflicting representations made by ATV, the Authority has serious doubt as to whether ATV management had checked with relevant parties in ATV before it submitted representations to the Authority. Further information obtained by the Authority indicated that ATV had not conducted any enquiry nor even discussed the incident with Mr Leung Ka Wing or Ms Tammy Tam

after 7 July before making representations to the Authority. In this connection, the Authority considers ATV's approach in its representations to the BA totally irresponsible."

While the criticism was targeted at the ATV management, Mr Kwong Hoi Ying was clearly closely involved in the handling of ATV's representations to the Authority in that case. The findings in that investigation indicate that Mr Kwong Hoi Ying had failed to exercise due diligence to ensure the accuracy of ATV's representations to the Authority. Nonetheless, there was no direct evidence that Mr Kwong Hoi Ying had provided false or misleading information to the Authority.

72. In view of the above, **the Authority is unable to reach the conclusion that Mr Kwong Hoi Ying as a then principal officer of ATV was not a "fit and proper person"**.

(3) "Fit and proper person" status of Mr Wong Ching

73. The Authority regrets that Mr Wong Ching has flouted the No-control Undertaking he made in October 2010 which stated that, following completion of ATV's shareholding change, he would not be "entitled to exercise *de facto* control of ATV". Since the Authority considers that Mr Wong Ching is in breach of the terms of the No-control Undertaking, it would be justified to further find that **Mr Wong Ching would not have met the criteria for a "fit and proper person" for the purposes of section 21 of the BO if an assessment were to be made.** The Authority could take this into account if Mr Wong Ching were to apply to be a voting controller, director or principal officer of a television programme service licensee in the future.

(4) "Fit and proper person" status of ATV as licensee

74. ATV is required under Condition 12 of its Licence to ensure that its officers, employees and associates would not act or permit any contravention of the BO, including the "fit and proper person" requirement. Therefore, potentially, breaches on the part of its officers and employees may be attributed to ATV if there is evidence, for example, that there was an inadequate culture of supervision within ATV which led to wrongful behaviour or if directors know or "turn a blind eye" to the provision of false or misleading information to the Authority, potentially making it liable for a breach of the statutory requirement.

75. Furthermore, licensees are expected to adopt appropriate standards of corporate governance and demonstrate that the board of directors and management team are exercising effective control. However, despite the Authority's repeated advice to ATV to adopt appropriate standards of corporate governance, **it is regrettable that the ATV Board has failed to discharge its duty in the management of ATV** and as a consequence the irregularities described in this report were allowed to occur. In the course of the investigation, the Authority noted that the appointment of Mr James Shing as the Executive Director was approved by the ATV Board at its meeting on 23 March 2010, but this could not be confirmed by the minutes of that meeting. The terms of appointment for Mr James Shing were not recorded in the minutes of that ATV Board meeting; despite this, Mr James Shing signed off the appointment letter for himself. Between 27 November 2010 and 3 October 2011, ATV did not convene any Board meetings. The lack of oversight from the ATV Board allowed Mr James Shing to exercise his so-called "implied authority" to engage a personal consultant whose rights are far beyond that would normally be expected of a personal consultant. The retrospective ratification of the Consulting Agreement and the conduct of Mr James Shing, by a resolution passed at the ATV Board meeting on 26 March 2012, does not address any of the key concerns expressed in this report, namely, whether Mr Wong Ching and ATV have breached their undertakings to the Authority and whether ATV has failed the "fit and proper person" test. The ATV Board appears defunct.

76. The Authority has been provided with copies of correspondence exchanged between the solicitors for ATV and the solicitors for those ATV directors who had voted against the resolutions which were passed at the ATV Board Meeting on 26 March 2012. These documents reveal that there are deep divisions within the ATV Board which are preventing it from functioning effectively. Those directors who voted against the resolutions complained that they have not been able to obtain information and documents relating to ATV, including those concerning its day-to-day management and operations and the issues the Authority is investigating, the lack of Board meetings, and their exclusion from the management and operations of ATV. Without deciding on the disputes, their existence reveals serious problems of governance in ATV. This lack of effective corporate governance within ATV is further evidenced by the assertion of Mr James Shing that he was the only person who was authorised to handle day-to-day management and operations of ATV and it would be unrealistic to expect any other person to do so (see paragraph 20 above). This should not be the situation if proper governance is in place.

77. Despite the Authority's concerns over the poor corporate governance in ATV, ATV as a licensee has been delivering broadcasting services in line with the scope of its licence and has largely complied with its financial and other programming commitments. Conscious of the requirement to meet a high threshold commensurate with any adverse finding on the fitness and properness of a licensee, the Authority considers that ATV should not be adjudged as failing or ceasing to be a "fit and proper person" to hold the Licence on the basis of the evidence collected for this investigation up to June 2012 as well as the findings on matters being investigated in the present investigation (see paragraph 9 above).

78. However, the Authority believes that the divisions within ATV clearly demand prompt and effective steps to be taken to address the problems created by the lack of effective corporate governance in ATV. The Authority considers it necessary for ATV to submit a proposal to the Authority setting out in detail the steps that ATV must take to improve its corporate governance standards to a level which is expected of a licensee. ATV is required to submit the proposal to the Authority within three months from the service of the final investigation report upon ATV. Thereafter, ATV should submit annual progress reports to demonstrate the effective implementation of the improvement measures recommended in this proposal. The Authority will take into account the progress made by ATV to improve its corporate governance in considering whether ATV should continue to be regarded as a "fit and proper person" to hold its Licence.

THE AUTHORITY'S DECISION

79. Having considered all information collected in the course of the investigation, the Authority has decided to –

- (a) impose a financial penalty of \$1,000,000 on ATV for breaching the relevant requirements as set out in paragraph 42 above. In imposing the maximum financial penalty, the Authority has taken into account the nature and gravity of the matters identified in this report, the strong public interest in ensuring the licensee's compliance with all regulatory requirements and the absence of effective governance within ATV. ATV has been given an opportunity to comment on the proposed financial penalty, and it has not made any representations in this regard within the deadline set by the Authority;

- (b) issue a direction under section 24 of the BO that ATV shall require Mr James Shing to cease acting as a person exercising control (including directorship) of ATV, within seven days from the service of the final investigation report upon ATV, on the ground that Mr James Shing has been determined by the Authority to be no longer a “fit and proper person” within section 21(1) of the BO; and
- (c) issue a direction under section 24 of the BO requiring ATV to –
 - (i) ensure that Mr Wong Ching will refrain from exercising *de facto* control of ATV;
 - (ii) take immediate rectification action to ensure that the management of ATV shall not be performed by any persons other than the directors and principal officers of ATV and persons duly authorised by ATV; and
 - (iii) submit to the Authority for its approval, within three months from the service of the final investigation report upon ATV, a proposal setting out in detail the steps that ATV should take to improve its corporate governance standards to a level which is expected of a licensee. Thereafter, ATV shall submit annual progress reports, the first to be submitted one year after the service of the final investigation report, setting out the progress that it has made to improve its corporate governance, until the Authority is satisfied that the proposed improvement measures have been fully and effectively implemented and ATV is operating according to appropriate standards of corporate governance.

**Extract of Minutes of
ATV's Weekly Management Meetings which show
Mr Wong Ching's involvement
in the day-to-day management and operations of ATV**

INCIDENT/OCCASION		SOURCE
<u>Management and Operation of ATV</u>		
(1)	「王先生訓示所有與會人士，必需依時出席，除特殊情況之外，未能出席者，須事先通知盛執董私人助理，然後由她於開會前向鄭總匯報，會議前一小時不接納請假申請，請各與會人士遵守及必須嚴格執行。」	Minutes of meeting of 7.12.2010 (supplied by Interviewees)
(2)	「請人力資源科整理由10月開始至今高管的出勤紀錄，明早呈王先生及鄭總審閱。」	Minutes of meeting of 7.12.2010 (supplied by Interviewees)
(3)	「王先生指出亞視的董事局記錄有清晰列明盛執董的權限，而行政總裁亦未有實際執行董事局要求所做的的事情。」	Minutes of meeting of 19.4.2010 (supplied by ATV)
(4)	「王征先生表示要加強藝員的管理，規矩要嚴格執行，賞罰要分明。」	Minutes of meeting of 19.7.2010 (supplied by ATV)
<u>Production, Selection and Scheduling of Programmes of ATV</u>		
(5)	「王先生要求將過去同時段節目及《法網群英》的收視做比較，研究是否值得開拍劇集。」	Minutes of meeting of 9.8.2010 (supplied by ATV)

INCIDENT/OCCASION		SOURCE	
(6)	「《感動香港》：王先生指示要將[×××]在港出席活動的情況製作成專輯，新聞部安排在下週的《時事追擊》時段播出。」	Minutes of meeting of 11.10.2010 (supplied by Interviewees)	
(7)	「王先生認為明年自拍劇應以低成本製作，不需要靠明星效應，儘量起用自己培訓的或外間有一點知名度的藝員，預估平均目標收視7點，按收視實行賞罰制度。」 「王先生提出在週末劃出一個固定時段，用來推銷樓盤廣告雜誌，暫定接檔《葡萄新貴族》播出。」	Minutes of meeting of 27.9.2010 (supplied by Interviewees)	
(8)	「王先生表示如遇到特殊情況，需要調動或抽起客戶贊助節目時，應即時通報管理層，以公司名義處理。」	Minutes of meeting of 7.12.2010 (supplied by Interviewees)	
(9)	「2010年度第一屆感動香港十大人物評選：候選人名單將與王征先生作最後確定。」	Minutes of meeting of 26.7.2010 (supplied by ATV)	
(10)	「《香港GoGoGo》：王先生訓示不能隨便承諾客戶播出日期，需向客戶明確講明亞視要保證節目的質量。」	Minutes of meetings of 2.11.2010 (supplied by Interviewees)	
(11)	「[×××]150週年會慶：王先生表示如沒有播出費將不作考慮及安排播出。」 「王先生表示遇到直播節目時需要停播常規節目是可以理解的，不能隨便作出調動。」	Minutes of meeting of 3.5.2011 (supplied by Interviewees)	

INCIDENT/OCCASION		SOURCE
(12)	「《香港百人》：對於一些年紀較大的被訪者，王先生表示需按時跟進他們的狀況。」	Minutes of meeting of 28.2.2011 (supplied by Interviewees)
(13)	「《走進上市公司》：暫時只能製作5分鐘節目，鄭總建議必須取得王先生批准方可作出任何製作方向及時間的改變。」	Minutes of meeting of 26.4.2011 (supplied by Interviewees)
<u>Sales and Marketing of ATV</u>		
(14)	「亞姐西部賽區：王征先生訓示日後需按公司的規矩辦事並需於限期內完成，要有完善的管理制度，遇到特殊情況須儘快向盛執董呈交書面報告請示，財務部亦應取得文件或合約的正本作出審理。」	Minutes of meeting of 2.8.2010 (supplied by ATV)
(15)	「[×××]處境劇暫名《親密損友》...王先生囑營業部要努力向客戶推銷，要保證拿回製作成本之外再加[×××]萬元利潤。」	Minutes of meeting of 27.9.2010 (supplied by Interviewees)
(16)	「王先生指示雷總了解在廣州如何能直接申請賣製作及發行電視節目的事。」	Minutes of meeting of 2.11.2010 (supplied by Interviewees)
(17)	「目前亞視及[×××]兩台的收視份額，王先生認為是四六之分，而廣告收益則是二八之分，盛董將肩負擴大亞視宣傳攻勢的重任，下週開會時講述如何鋪排。」	Minutes of meeting of 28.2.2011 (supplied by Interviewees)

INCIDENT/OCCASION		SOURCE	
<u>Business Development</u>			
(18)	「感動香港十大人物評選：王征先生表示會負責籌資500萬元作為營運資金...至於是否將資金成立慈善基金及製作費問題，請[×××]下週一前提交方案。」	Minutes of meeting of 7.6.2010 (supplied by ATV)	
(19)	「《亞洲小姐》：港澳區的招募推進中，但反應較為冷淡...[×××]原則上會籌辦但細節有待洽談，至於授權費[×××]萬元人民幣方面，對方希望能夠有市政府的贊助及亞視的補貼，王先生以短訊指示不能讓步，稍後會再向王先生確定。」	Minutes of meeting of 23.8.2010 (supplied by ATV)	
(20)	「王先生請樂總就收視調查公司的事月底提交建議報告。」	Minutes of meeting of 9.8.2010 (supplied by ATV)	
(21)	「《勝者為王》：如用回[×××]原聲，王先生指示需查明亞視需負上的法律責任。」 「王先生認為如常規宣傳的教果不理想，大家應改變固有的思維方式尋求突破，請公關部明天提交建議報告。」	Minutes of meeting of 27.9.2010 (supplied by Interviewees)	
(22)	「[×××]來信提出租用慈雲山發射站擺放他們移動電視的設備及天線，要求亞視就協助運作及提供維護服務等報價，王先生指示任何安排落實前需先簽訂協議。」	Minutes of meeting of 25.10.2010 (supplied by Interviewees)	
(23)	「王先生指示與[×××]的[×××]先生聯絡，洽談合作的可能性。」	Minutes of meeting of 7.12.2010 (supplied by Interviewees)	

INCIDENT/OCCASION		SOURCE	
(24)	「報告與春浪演唱嘉年華活動場地接洽的情況...王先生指示暫緩與對方接洽。」	Minutes of meeting of 3.5.2011 (supplied by Interviewees)	
<u>External Affairs of ATV</u>			
(25)	「[×××]開發區招商活動：1月18日下午在亞視8廠進行招商會，王先生會出面邀請一些貴賓。」	Minutes of meeting of 13.12.2010 (supplied by ATV)	

**Statements and Submissions of Interviewees which show
Mr Wong Ching's involvement
in the day-to-day management and operations of ATV**

INCIDENT/OCCASION	
<u>Management and Operation of ATV</u>	
(1)	2010年4月開始，王征在亞視有自己的辦公室，並直接召見部門主管，在日常運作上提出很多要求和命令，例如亞洲小姐的製作、節目編排、宣傳口號及宣傳重點等。而胡競英也要聽命於王征。 王征出席(每周管理層例會)之時，鄭凱迎只是負責宣布開會，然後王征主導整個會議，不按議程，只討論王征想批評的事。 王征於行政例會上經常有指導性發言，其發言次數多於盛品儒及鄭凱迎。 在每周行政例會上，盛品儒雖與鄭凱迎同坐主席位，但極少發言，並經常在會議期間把弄智能手機。盛品儒很多時候根本不知道會議在討論什麼事情。 盛品儒雖為簽署文件及主持會議的人，但在行政會議上作決定的人是王征，而盛從來不作決定。 王雖然為盛的私人顧問，但王主導每周行政例會比盛更甚。
(2)	亞視由王征一個人作主。 盛品儒曾於一次會議上介紹王征為他的高級顧問，並表示王可代表盛行使盛在亞視應有的權力。¹
(3)	2011年初開始，亞視業務每況愈下，在管理層例會內匯報的廣告收入比去年同期差一大截。王征在會上開始搬出內地某些電視台的賺錢模式，並嚴厲斥責各部門負責人，批評香港的電視人沒有新思維。
(4)	2010年4月初的某次行政例會，王征連同盛品儒一齊到場，並提示盛宜讀董事會委任盛品儒為執行董事。王征之後時常來亞視，亦出席行政例會。

¹ The deletion was made under the request of the Interviewee concerned.

INCIDENT/OCCASION	
	2010年中或更早:王征開始出現在管理層的每周例會上，在名單及會議紀錄上，王的名字會出現在「出席」或「致歉」的欄目。即使王缺席，鄭凱迎亦於會上傳話指「王生/老闆話...」 有一次例會上，王征指示管理層人員上班必須守時，因他早上回來時常找不到人。之後人事部開始每月向管理人員發出出勤記錄，並要求各人回簽確認。
(5)	王征曾於每周行政會提出或建議推行節目項目制，並要求部門主管詢問屬下員工就參與該項目制表示意向。 王征曾指令、指示及要求亞視員工跟從他的指示。王並會責備部份亞視員工沒有跟從他的指示或員工所犯的錯誤。
<u>Production, Selection and Scheduling of Programmes of ATV</u>	
(6)	王征所給的指示非常廣泛，由員工紀律、節目、銷售、製作、節目編排，以至管理人員職責及行政事宜均有作出指示。 王征會邀請亞視員工去他在亞視的辦公室，或他在西九龍的公寓開會，提出想做某些節目，並要求與會員工找時段播放該等節目。例子：王征提出製作《走進上市公司》及《亞姐睇樓》等廣告雜誌式節目，亦指示員工要為該等節目安排播出時間；同時要求其助手為該等節目編排何日及何時播出，並在擬備的節目時間表親筆寫上，沒有王征的同意不可更改有關節目安排。有關主管對此無法阻止。後來，另一較高級主管發現有關節目時間表，但只在該表寫下，請員工盡量配合指示。
(7)	王征提出要製作《感動香港》。王是該節目的推動者。在2010年4、5月的行政會議上，王征指出亞視人手緊絀，要求新聞部支持有關節目的製作。 王征曾要求將黃金時間最好的時段用以播放《感動香港》。有關主管提出反對，並指出反對理由，例如該類紀錄片式節目不宜安插在晚上8:30時段，因為[×××]會在同時段播放劇集，須考慮收視的因素等。但該主管不得要領，王征依然指明要於晚上8:30時段播出《感動香港》。 盛品儒和王征甚少對話。曾經有一次，王征希望每一個節目都有一個項目

INCIDENT/OCCASION	
	經理，而他亦委派盛做其中一個節目的項目經理。該節目大約名為「百萬年薪製作人」，但後來該節目流產。
(8)	2011年4月，鄭凱迎主持行政例會時說，《走進上市公司》的節目該如何進行，或有任何改動，均需先請示王征。而王亦對《香港百人》的節目製作提出指示。 2010年5月下旬，王征提出要亞視製作一系列節目《感動香港》。當時亞視其他部門資源緊絀，節目部及製作部都不敢承擔。於是王征召見有關負責人，希望新聞部能製作這節目，而這個會議是由王征主導。在新聞部製作《感動香港》期間，王征多次直接找負責拍攝的新聞部員工，要求採訪王征自己安排的人物。王征並親自聯同拍攝隊上門做訪問。在有關節目製作過程中，王的意見往往起關鍵作用，有時他會親自指揮及參與拍攝及記者的工作，被訪者名單的最後確定，也由王拍板，王又要求臨時加入一些名單。 2011年8月底，王征召集多位管理層及節目部負責人討論《感動香港》的製作。該節目雖由新聞部拍攝製作，但王征經常就人選及許多製作細節發出指示，而王征亦在當日的討論發表他對入圍名單的意見及指示。
<u>Sales and Marketing of ATV</u>	
(9)	亞視的收視情況雖然並不理想，但亞視把其廣告價格提高了四倍，而有關的措施是由王征決定的。
<u>Business Development</u>	
(10)	2010年底，亞視與收視調查公司「CSM央視索福瑞媒介研究」的合約屆滿，王征曾親口在一次管理層例會上表明，亞視不應再沿用舊有的收視調查方式。終於亞視不跟CSM續約，改聘香港大學的[×××]每周替亞視進行收視調查。 2011年4月，王征召見有關部門主管，商議當天召開「收視打假」記者會事宜，並要新聞部配合。整個記者會的安排由王征主導，王征亦要求有關人士在記者會中如何發言。

INCIDENT/OCCASION	
<u>External Affairs of ATV</u>	
(11)	自2010年下旬開始，王征經常要管理層出席一些歡迎內地訪客的迎賓活動。王多次事後在行政例會上斥責迎賓活動搞得不好，有些員工從此不得參與迎賓。
(12)	王征先生不時安排各方友好參訪亞視，每次均要求多個部門主管出面接待...期間王征先生會以主人身份向來賓介紹他對亞視的未來大計。

**Mr Wong Ching's involvement
in the day-to-day management and operations of ATV**

**Examples of discrepancies between the versions supplied by
James Shing/Kwong Hoi Ying/Wong Ching and
Several Interviewees**

Incident / Occasion	Versions supplied by Messrs James Shing/ Kwong Hoi Ying / Wong Ching	Versions supplied by several Interviewees
Production of HK Loving Heart Series (感動香港)	Mr Wong Ching proposed the launch of “ATV HK Loving Hearts Campaign”. Mr James Shing requested Mr Wong Ching to invite reputable persons to be members of the jury. Mr James Shing also accepted Mr Wong Ching’s proposal to have the public affairs divisions of ATV’s news and public affairs divisions of ATV’s news and public affairs department produced the series.	- Mr Wong Ching proposed to produce a series of programmes “Hong Kong Loving Hearts”. Mr Wong Ching chaired a meeting with related units and asked the news department to produce the series. In the production of the series, Mr Wong had given frequent direct and decisive instructions to the news department (including the list of interviewees featured in the series). - Mr Wong Ching gave frequent instructions on the list of interviewees and the production arrangements. He also gave suggestions and instructions on the list of nominees for the campaign. - The production of “Hong Kong Loving Hearts” was proposed by Mr Wong Ching. In view of the limited resources of ATV, Mr Wong Ching requested the news department to support the production of the programme. Mr

Incident / Occasion	Versions supplied by Messrs James Shing/ Kwong Hoi Ying / Wong Ching	Versions supplied by several Interviewees
		Wong had even requested to schedule the programme at the best timeslot during prime time. Despite the objection of the subject officer, Mr Wong insisted on scheduling the programme at 8:30 p.m.
Production of Corporate Excellence (走進上市公司) and Home Sweet Home (亞姐睇樓)	Mr James Shing invited Mr Wong Ching to provide some suggestions on operational aspects of the programmes. Nevertheless, the final decisions were made by Mr James Shing or by the relevant senior executives and therefore Mr Wong's suggestions were neither instructions nor directions.	Mr Wong Ching proposed production of the programmes "Corporate Excellence" and "Home Sweet Home" and had asked ATV staff to make arrangement for the scheduling of the programmes. Mr Wong had even marked on the programme schedule that no changes to the scheduling of these programmes could be made unless with his approval.
Press Conference on CSM's Rating Result	Mr James Shing invited Wong Ching to his discussion with ATV senior management on rating result. Mr James Shing and other staff of ATV decided to convene a press conference to show ATV's dissatisfaction and doubt on CSM's rating result. The arrangement of the press conference was also decided upon Mr James Shing and his colleagues in ATV.	At a meeting in April 2011, Mr Wong Ching requested the news department to cooperate with the management in making arrangements for holding a press conference to announce ATV's position in respect of TV ratings. The arrangements of the press conference were directed by Mr Wong Ching. He had also arranged an ATV executive to host and speak at the press conference.

Material discrepancies in the Content of the Minutes Supplied by ATV and the Minutes Supplied by Interviewees

Dates of ATV's Weekly Management Meetings	Minutes Supplied by ATV	Minutes Supplied by Interviewees
31 Jan 2011	● 「[×××]：待請示合作模式後續跟進。」	● 「[×××]：待向王先生請示合作模式後續跟進。」
28 Feb 2011	● 「目前亞視及[×××]兩台的收視份額，盛總將肩負...。」	● 「目前亞視及[×××]兩台的收視份額，王先生認為是四六之分，而廣告收益則是二八之分。盛總將肩負...。」
	● 「對於一些年紀較大的被訪者，需要按時跟進他們的狀況。」	● 「對於一些年紀較大的被訪者，王先生表示需要按時跟進他們的狀況。」
14 Mar 2011	● 「日本地震引發輻射洩漏危機，已通知兩隊正在日本採訪的隊伍今天離開分別返回香港及北京，管理層非常關注採訪記者的安危及健康...。」	● 「日本地震引發輻射洩漏危機，已通知兩隊正在日本採訪的隊伍今天離開分別返回香港及北京，王先生及管理層非常關注採訪記者的安危及健康...。」
	● 「3月19日澳門賽馬會亞視盃：盛總將出席，鄭總請 [×××] 邀請王先生。」	● 「3月19日澳門賽馬會亞視盃：盛總將出席，鄭總請[×××]通知王先生。」
	● 「529台慶：初步方案已出，包括台慶後新節目的建議。」	● 「529台慶：初步方案已出，待王先生回來後作具體報告，包括台慶後新節目的建議。」
26 Apr 2011	● 「《走進上市公司》：暫時只能製作5分鐘節目，鄭總建議暫不作任何製作方向及時間的改變。」	● 「《走進上市公司》：暫時只能製作5分鐘節目，鄭總建議必須取得王先生批准方可作出任何製作方向及時間的改變。」
3 May 2011	● 「管理層表示遇到直播節目時需要停播常規節目是可以理解的，不能隨便作出調動。」	● 「王先生表示遇到直播節目時需要停播常規節目是可以理解的，不能隨便作出調動。」

Dates of ATV's Weekly Management Meetings	Minutes Supplied by ATV	Minutes Supplied by Interviewees
	● 「報告與春浪演唱嘉年華活動場地接洽的情況，可考慮香港大球場及西九龍海濱長廊。」 ● 「[X X X]要求亞視給予節目的收視資料，他們將按本台節目的收視率向我司收取提供財經數據的費用，對方欲將本台在內地落地的收視也一併計算收費。建議盡可能與對方洽談維持原價。」 ● 「[X X X]150週年會慶：5月27日在會展舉行大型啓動禮及文藝演出，如沒有播出費將不作考慮及安排播出。」	● 「報告與春浪演唱嘉年華活動場地接洽的情況，可考慮香港大球場及西九龍海濱長廊。王先生指示暫緩與對方接洽。」 ● 「[X X X]要求亞視給予節目的收視資料，他們將按本台節目的收視率向我司收取提供財經數據的費用，對方欲將本台在內地落地的收視也一併計算收費。王先生建議盡可能與對方洽談維持原價。」 ● 「[X X X]150週年會慶：5月27日在會展舉行大型啓動禮及文藝演出，王先生表示如沒有播出費將不作考慮及安排播出。」
24 May 2011	● Such records not found.	● 「王先生向與會人士發表講話，摘錄如下： - 亞視正面對 i)政府即將批出另外三個地面免費服務牌照；ii)兩台的收視爭議；iii)與股東間的官司等內憂外患的情形。 - 王先生勉勵大家團結起來做好準備，有意見不妨提出討論，最終按公司決定而行。」
3, 10, 17, 31 Jan; 7, 14, 21 Feb; 14 Mar; 26 Apr; 11, 18, 25 July; 1 Aug 2011	● Wong Ching not among the names listed in the minutes as absent with apologies (致歉)	● Wong Ching among the names listed in the minutes as absent with apologies (致歉)